RECENT CASES

ATTORNEY AND CLIENT—DISBARMENT PROCEEDINGS—GROUNDS.—IN RE WILSON, 100 PAC. 835 (KAN.).—*Held,* that where a lawyer accepts employment to act for some one else in a business transaction, such as the sale of land, in the course of which he receives money belonging to his employer, his wrongful detention of it is sufficient ground for his disbarment, although he may not have been called upon to give legal advice or to take part in the litigation.

The wrongful detention by an attorney of money collected from a client is a well recognized cause for disbarment. *Southworth v. Bearnes,* 88 Minn. 31; *People v. Sindlinger,* 28 Col. 258. But when such an act of misconduct is alleged against an attorney acting as an ordinary person, there is a conflict of opinion as to whether the courts can disbar. The weight of authority is that the statutes covering misconduct in professional capacity do not limit the common law powers of the court to disbar whenever an attorney ceases to sustain such a moral character as would suffice to fill the requirements of admission to the bar. *Boston Bar Association v. Greenwood,* 168 Mass. 169. *In re O—,* 73 Wis. 602. But there are not wanting cases to the contrary. *In re Husson,* 26 Hun. (N. Y.) 130; *ex parte Steinman and Hensel,* 95 Pa. St. 220; *People v. Allison,* 68 Ill. 151. While the Illinois courts have held to the latter rule, they have admitted that there might be cases where the misconduct would be of so gross a character as to require disbarment. *The People v. Appleton,* 105 Ill. 477.

CARRIERS—INJURIES TO PASSENGERS—PASSENGER ELEVATORS.—STIESKAL V. MARSHALL FIELD & CO., 87 N. E. 117 (ILL.).—*Held.* that a person operating a passenger elevator used to carry persons from floor to floor in a store building must exercise a high degree of care in transporting them. Cartwright, C. J., and Dunn and Scott, J. J., *dissenting.*

The great weight of authority holds that a proprietor of a passenger elevator is subject to the same liabilities for injuries as a common carrier of passengers is. *Treadwell v. Whittier,* 80 Cal. 574; *Mitchell v. Marker,* 62 Fed. 139; *Fox v. Philadelphia.* 208 Pa. St 127. However, a few jurisdictions rule that one who maintains a passenger elevator is not a common carrier and that the measure of his duty is the rule of reasonable care. *Griffen v. Manice,* 166 N. Y. 188; *Seaver v. Bradley.* 179 Mass. 329; *Burgess v. Stowe,* 134 Mich. 204. But as to injuries received by an employee while using an elevator, the courts hold that he is not a passenger and that the master is required to use only ordinary care in the operation and maintenance of the elevator. *McDonough v. Lanpher,* 55 Minn. 501; *Sievers v. Peters Box & Lumber Co.,* 151 Ind. 642.

CARRIERS—MOVEMENT OF CIRCUS TRAIN—SPECIAL CONTRACT.—SAGER V. NORTHERN PACIFIC R. R. CO., 166 FED. 526.—*Held,* that a special con-

tract between a carrier and a circus company to furnish motive power, etc., to move the circus train over the carrier's road at reduced rates, and exempting the carrier from liability was not contrary to public policy.

The weight of authority holds that in such a case the railroad acts as a private and not as a common carrier and has the right to limit its liability by special contract. *C. M. & St. P. R. Co. v. Wallace,* 66 Fed. 506; *Robertson v. Old Colony.* 156 Mass. 525. For such a contract is not against public policy. *Wilson v. At. Coast Line R. Co.* 129 Fed. 774. Exemption of the railroad company from liability for negligence by special contract in the case of an express messenger has likewise been held valid on the same ground. *Long v. Lehigh Val. R. Co.,* 130 Fed. 870; *Peterson v. C. & N. W. R. Co.,* 119 Wis. 197. But a case holding the contrary is reported in N. C., where there was doubt as to whether the railroad was acting as a common or private carrier. *Seaboard Air Line R. Co. v. Main,* 132 N. C. 445. However, it is generally held that a common carrier can not by special contract exempt itself from liability for its own negligence or that of its servants. *School Dist. v. B. H. E. R. R.,* 102 Mass. 552; *Rose v. Des Moines R. Co.,* 39 Ia. 246.

CRIMINAL LAW—EVIDENCE OF INTENT—OTHER OFFENSES.—STATE v. HIGHT, 63 S. E. 1043 (N. C.).—*Held,* that, in the prosecution of accused for embezzlement of a watch from his employers, evidence that accused. during two years of his employment had repeatedly taken other property from his employers, disposed of it and applied the proceeds to his own use, was admissible to show intent.

It is a general rule that, on the trial of the accused on one offense, proof of other distinct crimes is not admissible, *Boyd v. U. S.,* 142 U. S. 450; *Copperman v. People,* 56 N. Y. 593; but where a question of intent is involved, other offenses are admissible for the purpose of establishing that intent. *U. S. v. Snyder,* 14 Fed. 554; *State v. Murphy,* 84 N. C. 742. For this purpose, evidence of other offenses has been generally, though not always, admitted in cases of embezzlement. *People v. Cobler,* 108 Cal. 538; *Com. v. Tuckerman,* 10 Gray (Mass.) 173; *contra. Kribs v. People,* 82 Ill. 425. The collateral offenses must, however, be of such a kindred nature to the crime charged that the same motive might be reasonably imputed to all; *People v. Keepers,* 14 N. Y. Supp. 66; *U. S. v. Mitchell,* Fed. Cas. No. 15,789; and, in point of time, they must be before and reasonably near the crime charged. *People v. Hill,* 34 Pac. 854; *State v. Jeffries,* 117 N. C. 727.

CRIMINAL LAW—INTOXICATING LIQUORS—EVIDENCE—OTHER OFFENSES. —CAMPBELL v. STATE, 116 S. W. 581 (TEX.). In a prosecution for unlawfully selling intoxicants to a certain person named in the information, *held,* it was error to admit evidence of sales to another, made the day after the sale alleged in the information; there being no connection between the two sales.

This holding is supported by the weight of authority. On a trial for selling liquor illegally, it is error to admit evidence of two distinct sales.